

FINAL BILL REPORT

HB 2606

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Synopsis as Enacted

Brief Description: Allowing volunteer fire fighter personnel to hold elective or appointed office.

Sponsors: By Representatives Curtis, Takko, Orcutt, McDonald, Grant, Hinkle, Clements, Moeller, Chandler, Wallace, Tom, Kretz, Nixon, Blake, Kessler, Rodne, Haigh, B. Sullivan and Morrell.

House Committee on Local Government

Senate Committee on Government Operations & Elections

Background:

The Common Law Doctrine of "Incompatible Public Offices"

The Washington courts have long recognized a common law doctrine known as the "doctrine of incompatible public offices." In applying the doctrine, the courts have held that public offices are incompatible when the nature and duties of the offices are such as to render it improper, in light of public policy, for one person to retain both. Typically, the courts have found public offices to be incompatible when one office is either subordinate to, or subject to the statutory authority of, the other. However, under Washington law, such common law doctrines may be superseded by statute.

The courts have determined that a firefighter employed by a fire department does in fact hold a public office for the purposes of the doctrine of incompatible public offices. Although the courts have not considered whether a volunteer firefighter is a public officer, the Office of the Attorney General issued an opinion finding that volunteer firefighters are public officers and therefore subject to the doctrine.

Statutes Superceding the Doctrine of Incompatible Offices

Pursuant to a statute that supercedes the common law doctrine of incompatible public offices, any city or town may adopt a resolution by a two-thirds vote of its full legislative body authorizing any of the members of that body to serve as volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers. A similar statute allows a member of the board of a fire protection district to serve as volunteer firefighter within the district.

Summary:

A volunteer fire fighter working for a city, town, or fire protection district is authorized to serve as an elected public official or hold an appointed public office, provided there is no legal prohibition preventing him or her from taking office. This authorization does not apply to a fire chief.

"Volunteer" is defined to mean any member of a fire department who undertakes firefighting duties without receiving compensation or consideration for such duties. "Compensation" and "consideration" do not include any benefits the volunteer may accrue regarding pension rights and other relief available to volunteer fire fighters.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006